**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

**MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929**

**WP(C).No. 32667 of 2007(L)**
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**LAR.28/2006 of SUB COURT, MUVATTUPUZHA**
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**PETITIONER:**
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**KRISHNAN, S/O.KELAN,**
**CHANAKKALAPURAYIDATHIL MULAKKULAM,**
**VADAKKEKARA, PIRAVOM.**

**BY ADV. SRI.GEORGE SEBASTIAN**

**RESPONDENTS:**
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1. **STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE EXECUTIVE ENGINEER, M.V.P. DIVISION NO.IV. PIRAVOM.**

**BY GOVERNMENT PLEADER SMT.R.BINDU**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**M.N.KRISHNAN, J**

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**W.P.(C) No. 32667 OF 2007**

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**Dated this the 5th day of November 2007**

**JUDGMENT**

This writ petition is filed challenging the award passed by the Sub Court, Muvattupuzha in L.A.R.No.281/2006. The Sub Court did not consider the matter on merits on account of the absence of the claimant and therefore confirmed the award disallowing any enhancement. It is now clear by the decisions of the Apex Court as well as this Court that the Land Acquisition Court has no power to dismiss the matter for default and so it is a mandatory requirement that even in the absence of the claimant, the court has to consider the matter with the available materials and find out whether there is any scope for enhancement of the compensation. Or, in other words, even in the absence of the claimant, the application of mind of the court has to be revealed. In the present case there is no application of mind of the court for the reason that the claimant did not present himself for adducing evidence. This Court has also held in such cases that the party need not be driven to file an appeal and pay court fee.

Therefore, under such circumstances, I set aside the award passed by

the Land Acquisition Court and direct the court to restore the case back to file and give sufficient opportunities to both sides to adduce evidence in support of their contentions and decide the case. The court must also look into the matter and if it finds that there was negligence on the part of the claimant on the day, certainly the court can disallow interest from that date to this date on which the case is restored to file. Parties are directed to appear before the court below on 6.12.2007.

Writ petition is disposed of as above.

**M.N.KRISHNAN, JUDGE**

**Cdp/-**